114CSR70

INTERPRETIVE RULE INSURANCE COMMISSIONER

SERIES 70 REBATES AND REFERRALS

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§114-70-1. General.

- 1.1. Scope. -- The purpose of this interpretive rule is to set a reasonable monetary limit upon the value of items given to a consumer or prospective consumer by insurance companies or producers in connection with the solicitation or sale of insurance products and to specify what constitutes a "nominal fee" with respect to referrals to insurance companies or producers by individuals not licensed to sell insurance in this state.
- 1.2. Authority. -- This rule is promulgated pursuant to the authority of W. Va. Code §33-2-10.
 - 1.3. Filing Date. -- August 26, 2004.
 - 1.4. Effective Date. -- September 25, 2004.

§114-70-2. Interpretive Note.

2.1. The Insurance Commissioner routinely receives questions concerning whether a company or producer may give away items such as pens, key chains, clocks, and other similar items without violating the anti-rebating provisions set forth in W. Va. Code 33-11-4(8). Likewise, the Insurance Commissioner fields many questions about how much an individual may charge for providing a referral to an insurance company or producer without violating the prohibition on referral fees set forth in WV 114CSR2. In order to provide practical and useful guidance to the insurance industry and to the public at large, this interpretive rule sets forth reasonable standards in these areas. This interpretive rule should be read in pari materia with W. Va. Code 33-11-4(8) and WV 114CSR2.

§114-70-3. Limitation on Items of Value with Respect to Rebates.

3.1. For the purposes of W. Va. Code 33-11-4(8), the phrases "valuable consideration" and "anything of value" shall not include any educational materials, promotional materials, or articles of merchandise that cost twenty-five dollars (\$25.00) or less, regardless of whether a policy or contract is purchased.

3.2. For the purpose of determining the value of any item pursuant to W. Va. Code 33-11-4(8), an insurance company or producer shall retain the original invoice for such item for five (5) years beyond the later of the date the offer is discontinued or the date the last item is given.

§114-70-4. Defining Nominal Fee with Respect to Referrals.

- 4.1. For the purposes of subsection 6.1 of WV 114CSR2, the phrase "nominal fee" means a one-time fee of twenty-five dollars (\$25.00) or less.
- 4.2. The payment of any referral fee cannot depend on whether the referral results in the sale or issuance of an insurance product or service.